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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,682	01/16/2004	Tracy E. Thieret	D/A2179	8583
<div>7590 Ortiz &amp; Lopez, PLLC P.O. Box 4484 Albuquerque, NM 87196-4484</div>				
			<div>EXAMINER CONTINO, PAUL F</div>	
			<div>ART UNIT 2114</div>	<div>PAPER NUMBER</div>
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/759,682	<b>Applicant(s)</b> THIERET ET AL.	
	<b>Examiner</b> Paul Contino	<b>Art Unit</b> 2114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 25-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION: Final Rejection**

*Response to Arguments*

1. Applicant's arguments filed April 25, 2007, have been fully considered but they are not persuasive.

2. The Examiner respectfully disagrees with the Applicant's arguments on pages 9-18 of the Remarks concerning the Bajpai reference as failing to disclose telephonically interacting with a customer while one of an action occurs, including escalating fault analysis to an advanced customer support unit.

The Applicant's Specification, such as in paragraph [024], discloses telephonic communication between a customer and a support enterprise. The Examiner cannot find a specific definition of "telephonic communication" within the Specification and applicable to the claims which limits such communication to, for example, a vocal conversation between two persons. The term "talking" may be interpreted as communication occurring between two computers, such as through exchange of data. Further, telephonic communications are interpreted as any type of communications occurring over a telephonic medium, and not necessarily limited to a conversation between two human beings on a telephone. The Bajpai reference, on page 4 in lines 18 and 27-28, page 9 in lines 24-25, page 10 in lines 12, 18-19, and 29-30, page 11 lines 3-4 and 25-26, page 12 lines 1-2 and 8-10, and page 13 line 2, all reference telephonic communications – communications which occur between parties over telephone lines.

Further, the illustrations of Bajpai in Figure 1 elements 22, 24, and 26 clearly depict a telephone as being a part of the telecommunications equipment, which are used for communicating between parties engaged in a diagnostic “conversation”. The Applicant also describes communications within the Bajpai reference as “digital” in order to attempt to distinguish communications of the Applicant’s invention. However, it was well-known in the art at the time the invention was made to have telephone communications occurring via a digital signal, such as via a cellular phone or over the internet, and in addition, to pass information between computers using analog signals.

The Applicant continues to argue on pages 9 and 10 of the Remarks that Bajpai fails to disclose a diagnostic action taking place while a telephonic interaction is occurring. The Examiner respectfully disagrees with this argument. Because a communication link has been established between a local and a remote diagnostics unit as taught throughout Bajpai, and data is being transferred to and from the units, interaction between the “remote enterprise” and “customer” is occurring while the actions are taking place.

The Examiner also respectfully disagrees with the Applicant’s arguments on page 10 of the Remarks concerning Bajpai as failing to disclose escalating fault analysis to an advanced customer support unit. The Applicant argues that passing control to an engineer is not the same as escalating fault analysis to an advanced customer support unit. However, Bajpai discloses in page 11 lines 25-26 that an engineer is a next level of fault escalation, and therefor is an advanced customer support unit. Again, there is no support in the claims as to what a “level” of customer support includes. Further, because the claims include alternative language, where only

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one of the actions I), II), or III) proceed, it is necessary to only address one of these actions in order for the prior art to overcome the claims.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "levels of customer support", "talking" on a "telephone") are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

3. The Examiner respectfully disagrees with the Applicant's arguments on pages 16-18 regarding lack of a reasonable expectation of success concerning combining of references. The Examiner continues to offer such motivation for combining of references in the rejections below.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 25-34, 36-43, and 45-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Bajpai (WO 97/15009).

As in claim 25, Bajpai discloses a method of automating customer assistance associated with a machine, comprising the steps of:

collecting machine data in a database associated with said machine (*page 10 lines 3-9, where the files and information collected are interpreted as inherently being stored in some type of a database, where local diagnostic element 28 is interpreted as a machine*);

creating a document containing said machine data (*page 10 lines 3-9 and page 11 lines 4-6, where the files and information are collected as a packet [i.e. document]*);

transmitting said document over a data network to a remote enterprise from said machine utilizing communication equipment associated with said machine (*Figs. 1 and 6; page 10 lines 3-4*);

processing said document at said remote enterprise (*page 11 lines 4-14, where diagnostic element 50 is interpreted as a part of a remote enterprise; Figure 1 illustrates a remote enterprise as the collection of remote diagnostic workstation 12, engineer's workstation 14, and engineer 31*); and

proceeding with one of the following while said remote enterprise is interacting telephonically with a customer (*page 9 lines 24-25, page 10 lines 10-12, and page 11 lines 12-14, where the user in association with user workstation 10 is interpreted as a customer interacting with remote enterprise 50 via a telephone link*):

I) providing said customer with corrective action for said machine (*page 11 lines 9-17*);

II) transmitting corrective action over said data network directly to said machine (*page 11 lines 9-17*);

III) escalating said fault analysis to an advanced customer support unit within said remote enterprise (*page 11 line 18*).

As in claim 26, Bajpai discloses said machine data is collected automatically by sensors or software associated with the machine (*page 5 lines 3-6 and page 7 line 1 through page 8 line 6*).

As in claim 27, Bajpai discloses said machine data is collected upon recognition of a malfunction by said sensors or software (*page 5 lines 9-11*).

As in claim 28, Bajpai discloses said machine data includes at least one of the group comprising: machine identity, machine location, machine usage history, error codes, customer identification (*page 10 lines 5-9*).

As in claim 29, Bajpai discloses said document is transmitted to said remote enterprise automatically by said machine (*page 10 lines 3-16*).

As in claim 30, Bajpai discloses said document is transmitted to said remote enterprise concurrently with a customer initiating communication telephonically with said remote enterprise (*page 10 lines 3-12, where it is interpreted that the customer [user workstation 10] is communicating with the remote enterprise [workstation 12] via telephone link inherently in order to transmit the document [packet]*).

As in claim 31, Bajpai discloses said remote enterprise processes said document prior to communicating with a customer associated with said machine (*page 11 lines 15-20, where the downloading/communicating of information by the remote enterprise is done after processing of the document*).

As in claim 32, Bajpai discloses said machine data includes at least one of the group comprising: machine identity, machine location, machine usage history, error codes, customer identification (*page 10 lines 5-9*).

As in claim 33, Bajpai discloses said document is processed at said remote enterprise for fault analysis of said machine (*page 11 lines 5-9*).

As in claim 34, Bajpai discloses interacting telephonically with a customer associated with said machine after said document is processed at said remote enterprise (*page 10 lines 3-12 and page 11 lines 15-20, where the downloading/communicating of information by the remote enterprise via a telephonic link is done after processing of the document*).

As in claim 36, Bajpai discloses a method of automating customer assistance associated with a machine, comprising the steps of:

collecting machine data in a database associated with said machine (*page 10 lines 3-9, where the files and information collected are interpreted as inherently being stored in some type*



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*of a database, where local diagnostic element 28 is interpreted as a machine), wherein said machine data is collected automatically by sensors or software associated with the machine (page 5 lines 3-6 and page 7 line 1 through page 8 line 6);*

*creating a document containing said machine data (page 10 lines 3-9 and page 11 lines 4-6, where the files and information are collected as a packet [i.e. document]);*

*transmitting said document over a data network to a remote enterprise from said machine utilizing communication equipment associated with said machine (Figs. 1 and 6; page 10 lines 3-4), wherein said machine data is transmitted automatically to said remote enterprise without user input (page 11 lines 4-6);*

*processing said document at said remote enterprise (page 11 lines 4-14, where diagnostic element 50 is interpreted as a part of a remote enterprise; Figure 1 illustrates a remote enterprise as the collection of remote diagnostic workstation 12, engineer's workstation 14, and engineer 31); and*

*proceeding with one of the following while said remote enterprise is interacting telephonically with a customer (page 9 lines 24-25, page 10 lines 10-12, and page 11 lines 12-14, where the user in association with user workstation 10 is interpreted as a customer interacting with remote enterprise 50 via a telephone link):*

I) *providing said customer with corrective action for said machine (page 11 lines 9-17);*

II) *transmitting corrective action over said data network directly to said machine (page 11 lines 9-17);*

III) escalating said fault analysis to an advanced customer support unit within said remote enterprise (*page 11 line 18*).

As in claim 37, Bajpai discloses said machine data includes at least one of the group comprising: machine identity, machine location, machine usage history, error codes, customer identification (*page 10 lines 5-9*).

As in claim 38, Bajpai discloses said document is transmitted to said remote enterprise concurrently with a customer initiating communication telephonically with said remote enterprise (*page 10 lines 3-12, where it is interpreted that the customer [user workstation 10] is communicating with the remote enterprise [workstation 12] via telephone link inherently in order to transmit the document [packet]*).

As in claim 39, Bajpai discloses processing said document at said remote enterprise utilizing a remote database of corrective actions (*Figs. 1 and 2; page 10 lines 3-27*).

As in claim 40, Bajpai discloses said document is processed at said remote enterprise for fault analysis of said machine (*page 11 lines 5-9*).

As in claim 41, Bajpai discloses said remote enterprise processes said document prior to communicating with a customer associated with said machine (*page 11 lines 15-20, where the*

*downloading/communicating of information by the remote enterprise is done after processing of the document).*

As in claim 42, Bajpai discloses interacting telephonically with a customer associated with said machine after said document is processed at said remote enterprise (*page 10 lines 3-12 and page 11 lines 15-20, where the downloading/communicating of information by the remote enterprise via a telephonic link is done after processing of the document*).

As in claim 43, Bajpai discloses requesting additional information from said machine by said remote enterprise over said data network (*page 11 lines 10-14*).

As in claim 45, Bajpai discloses a method of automating customer assistance associated with a machine, comprising the steps of:

collecting machine data in a database associated with said machine (*page 10 lines 3-9, where the files and information collected are interpreted as inherently being stored in some type of a database, where local diagnostic element 28 is interpreted as a machine*), wherein said machine data is collected automatically by sensors or software associated with the machine (*page 5 lines 3-6 and page 7 line 1 through page 8 line 6*);

creating a document containing said machine data (*page 10 lines 3-9 and page 11 lines 4-6, where the files and information are collected as a packet [i.e. document]*);

transmitting said document over a data network to a remote enterprise from said machine utilizing communication equipment associated with said machine (*Figs. 1 and 6; page 10 lines 3-4*);

processing said document at said remote enterprise (*page 11 lines 4-14, where diagnostic element 50 is interpreted as a part of a remote enterprise; Figure 1 illustrates a remote enterprise as the collection of remote diagnostic workstation 12, engineer's workstation 14, and engineer 31*); and

proceeding with one of the following while said remote enterprise is interacting telephonically with a customer (*page 9 lines 24-25, page 10 lines 10-12, and page 11 lines 12-14, where the user in association with user workstation 10 is interpreted as a customer interacting with remote enterprise 50 via a telephone link*):

I) providing said customer with corrective action for said machine (*page 11 lines 9-17*);

II) transmitting corrective action over said data network directly to said machine (*page 11 lines 9-17*);

III) escalating said fault analysis to an advanced customer support unit within said remote enterprise (*page 11 line 18*).

As in claim 46, Bajpai discloses said machine data includes at least one of the group comprising: machine identity, machine location, machine usage history, error codes, customer identification (*page 10 lines 5-9*).

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 35, 44, 47, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bajpai in view of Pfeiffer et al. (*US PGPub 2004/0078722*).

As in claims 35, 44, and 47, Bajpai discloses a document for transmission over a network. However, Bajpai fails to teach of formatting the document in an object description language. Pfeiffer et al. teaches of formatting troubleshooting information in XML before sending to a support enterprise (*Abstract, paragraph [0007]*).

It would have been obvious to a person skilled in the art at the time the invention was made to have included the XML formatting as taught by Pfeiffer et al. in the invention of Bajpai. This would have been obvious because XML allows for a more comprehensive means of troubleshooting in a computer system (*paragraphs [0005]-[0006] and [0016]*).

As in claim 48, Bajpai discloses said remote enterprise processes said document prior to communicating with a customer associated with said machine (*page 11 lines 15-20, where the*

*downloading/communicating of information by the remote enterprise is done after processing of the document).*

### ***Conclusion***

6. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Contino whose telephone number is (571) 272-3657. The examiner can normally be reached on Monday-Friday 9:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on (571) 272-3644. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PFC  
6/6/2007

  
SCOTT BADERMAN  
SUPERVISORY PATENT EXAMINER